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SUMMARY RECORD OF THE 60th MEETING

Chairman: Mr. CISSE (Senegal)

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The meeting was called to order at 4.15 p.m.

AGENDA ITEM 93: ELIMINATION OF RACISM AND RACIAL DISCRIMINATION (continued) (A/49/677)

1. Ms. FENG (China) said that her delegation had listened attentively to the introductory statement by the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related forms of intolerance at the 47th meeting of the Committee. His report (A/49/677), which was particularly informative and objective, made it possible to gain a better understanding of the new forms of racism.

2. Within a short period of time, the Special Rapporteur had assembled numerous facts indicating that racism and discrimination based on skin colour, ethnic origin and differences of opinion were still widespread and were growing in some areas. Acts of xenophobia, intolerance and racial discrimination against migrant workers were increasing, while new forms of extremist activities were appearing.

3. There were grounds for serious concern about that situation. The countries involved should take measures to put an end to it. Her delegation welcomed the establishment of the post of the Special Rapporteur. At the World Conference on Human Rights held in Vienna, he had asked all Governments to take immediate steps to combat forcefully all types of racism, xenophobia and related forms of intolerance. The international community should provide the Special Rapporteur with the necessary financial support and personnel to enable him to carry out his work and submit his report at the fiftieth session of the General Assembly.

4. Ms. FERTEKLIGIL (Turkey) welcomed the publication of the first substantive report of racism (A/49/677) submitted within the framework of the United Nations system and said that her delegation had focused all its attention on the part dealing with the theoretical aspects.

5. The question of racism could not be addressed without clearly defining the framework in which it was to be considered. The mandate of the Special Rapporteur was not as broad as one might initially think since it was limited by the very definition of racism.

6. Racism should not be confused with ethnic nationalism, which was an extreme form of nationalism. As the Rapporteur had stressed, cultural relativism was the basis for new forms of racism ("neo-racism"). It was therefore necessary to consider the situation in countries where new forms of racism had arisen, not the situation in countries in which there were conflicts since there were no grounds for establishing a direct link between racism and conflicts, whether they were ethnic or not. Conflicts brought forces into opposition on the basis of territorial, economic or other interests, whereas nothing was at stake in racist aggression, the victims of which generally lacked the means to defend themselves.

7. According to the Encyclopaedia Britannica, racism had developed only since the nineteenth century, one century after the appearance of nationalism and the nation State. While there had already been discrimination in other societies before that, it had not been practised on such a systematic basis. Furthermore, it was clear that racism as such manifested itself in well-defined geographic areas. The Special Rapporteur should therefore limit his work to the period and areas linked to that phenomenon.

8. Referring to section III of the report, her delegation was surprised that the same attention had been given to various countries, regardless of the extent of racism in each of them. She also regretted the fact that the report had not taken into account the degree of vulnerability of groups that were the victims of acts of racism, that the question of migrant workers had not been considered in sufficient detail and there was only one reference to Turkish migrant workers, who had nevertheless been the target of the greatest number of racist attacks. It was also regrettable that the report had focused more on isolated murders than on much more serious acts of aggression that had caused the death of a number of persons.

9. Her delegation recognized that it could have drawn the attention of the Special Rapporteur to the racist attacks against Turkish migrant workers. It had not done so because it had adhered to a strict interpretation of the questionnaire.

10. In addition, in order to avoid duplication with the work of the Committee on the Elimination of Racial Discrimination, the Special Rapporteur should let that Committee deal with that question.

11. Since the media reported on a daily basis on acts of aggression and other racist incidents, the Special Rapporteur could, in addition to the communications that he received from Governments, non-governmental organizations and individuals, consider those reports and verify them with the Governments concerned.

12. Although analysing the causes of racism was not part of his mandate, the Special Rapporteur indicated that racism was a result, inter alia, of the world economic crisis (A/49/677, para. 113). If that was correct, the new forms of racism would have appeared in the 1970s and at the beginning of the 1980s, not during the 1990s, and would be widespread throughout the developing countries. The Special Rapporteur also stated that the influx of migrant workers, combined with the economic crisis, had given rise to a "turning inward" in Western Europe, where "wealthy communities and social strata mean to preserve their comfort" (A/49/677, para. 115). It was not unemployed persons or wealthy social strata that engaged in racist violence, but rather marginal groups. The current acts of racist violence could not be explained by economic problems, particularly since those acts did not make it possible to solve them. She also wished to underscore the fact that human rights violations, particularly racism, could not be justified on any economic or political grounds.

13. Her delegation supported the proposal by the Special Rapporteur concerning the organization of an interdisciplinary seminar to study the causes of racism.

She also felt that he should be provided with all necessary financial means and personnel in order to be able to carry out his mandate.

14. Mr. FERNANDEZ PALACIOS (Cuba) said that he would have liked the discussion of the report of the Special Rapporteur (A/49/677) to take place under better conditions. He regretted in particular the fact that the report had not been available on time in all the official languages of the Organization, which had prevented the Committee from considering it in a truly open and in-depth manner. His delegation assured the Special Rapporteur of its complete support and stressed the need to provide him with all the resources that he required in order to carry out his mandate. In addition, the Cuban delegation intended to submit a draft decision on the question.

15. Mrs. ESPINOSA (Mexico) said that her delegation had made a statement during the debate on the elimination of racism and racial discrimination, in which it had presented the views of the Mexican Government on the issue as well as comments on the report. Her delegation wished to thank the Special Rapporteur for his well-documented report; the recommendations contained in the report merited the Committee's close attention. She wished to assure the Special Rapporteur of her delegation's support and cooperation, and hoped that he would have the necessary financial and human resources to fulfil his mandate. Her delegation regretted that, owing to circumstances beyond the Special Rapporteur's control, the Committee had not been able to consider the report (A/49/677) with due calm and attention, and hoped that in 1995 the Committee would have more time to consider the preliminary report that the Special Rapporteur would submit on his activities.

16. Mr. MUCH (Germany) welcomed the publication of the Special Rapporteur's report and commended his impartiality. He looked forward to the Special Rapporteur's visit to Germany in March 1995.

17. The Chairman said that the Committee had concluded its consideration of agenda item 93.

AGENDA ITEM 100: HUMAN RIGHTS QUESTIONS (continued)

(e) CAPITAL PUNISHMENT (continued) (A/C.3/49/L.32, L.73 and L.74)

Draft resolution A/C.3/49/L.32 and amendments A/C.3/49/L.73 and A/C.3/49/L.74

18. Mr. FULCI (Italy) introduced the revised version of draft resolution A/C.3/49/L.32, which had been prepared by 50 sponsors to try to accommodate the amendments proposed by Singapore (A/C.3/49/L.73) and Egypt (A/C.3/49/L.74). The following new paragraph should be inserted after the last paragraph of the preamble: "Reaffirming the sovereign right of States to determine, in accordance with international law, including the Charter of the United Nations, the legal measures and penalties which are appropriate to deal with the most serious crimes". His delegation was of the view that the wording of that paragraph should be consistent with the provision of the International Covenant on Civil and Political Rights, which invited "countries which have not abolished the death penalty" to impose the sentence of death "only for the most serious crimes" (art. 6, para. 2). For the reasons already adduced by the

representative of France, it had seemed useful to add a reference to international law and the Charter of the United Nations in the draft resolution.

19. With respect to the amendments proposed by Egypt, the sponsors had accepted the replacement of the word "Convinced" in the seventh preambular paragraph by the word "Noting", and of the words "Calls upon" in paragraph 1 by the word "Invites". In paragraph 2, however, the sponsors could not accept the replacement of the word "Urges" by the word "Encourages" because one could not simply encourage States to comply with their international obligations. Moreover, it should be emphasized that that request was addressed to the States Parties to the relevant conventions.

20. The sponsors considered that the revised version of the draft resolution was the best evidence of their desire to present a balanced and mild text and their commitment to bridge the gap with countries having different views on capital punishment. They hoped that the new text would receive wide support and allow the Committee's debates to reach a fair outcome.

21. Mr. CHEW (Singapore) said that, while the revised version introduced by the representative of Italy constituted an amendment, he would request, in accordance with article 130 of the rules of procedure, that the text of document A/C.3/49/L.73 should be put to a vote first, since the substance of that document was the furthest removed from the original proposal.

22. The CHAIRMAN said that he had understood that the representative of Italy had been making revisions, and it was therefore necessary to begin by considering Singapore's proposal.

23. Mr. BIGGAR (Ireland) said that Singapore's proposal as contained in document A/C.3/49/L.73 related to the unrevised version of document A/C.3/49/L.32 that the sponsors had reworded in order to accommodate the amendment proposed by Singapore. Consequently, there was no need to take a decision on Singapore's proposal.

24. The CHAIRMAN asked the representative of Singapore whether his amendment related to the new revised version.

25. Mr. CHEW (Singapore) said that his amendment did relate to the new version.

26. Mr. BREITENSTEIN (Finland) said that the amendment proposed by Singapore dealt with draft resolution A/C.3/49/L.32 and, since Italy had revised the text, the amendments should be presented orally before a decision was taken.

27. Mr. SREENIVASAN (India), speaking on a point of order, said that, since the text of draft resolution A/C.3/49/L.32 was the only text that had been circulated and since the deadline for submitting draft resolutions had passed, there could be no revised text. Singapore's amendment therefore dealt with the text of draft resolution A/C.3/49/L.32, on which the Committee would take a decision. Consequently, Singapore did not have to resubmit its amendment.

28. Mr. CHEW (Singapore), having received permission from the Chairman, read out the amendment relating to the eighth preambular paragraph, which he had proposed in accordance with article 120 of the rules of procedure.

29. Mr. ELDEEB (Egypt) said that the official document submitted to the Committee was document A/C.3/49/L.32, to which the amendments introduced by Singapore (A/C.3/49/L.73) and Egypt (A/C.3/49/L.74) pertained; those amendments were fully valid. On the other hand, the revised version of the draft that had just been presented to the Committee was not an official document. The Committee was obliged to take decisions only on official documents that had been submitted 24 hours in advance.

30. The CHAIRMAN noted that the sponsors could revise a draft resolution as long as a decision had not yet been taken on the draft.

31. Mr. ELDEEB (Egypt) said that the revised version of the draft that had just been informally introduced could lead other delegations to consult their capitals. It would perhaps be wiser to defer a decision on the revised version, which had been informally introduced, and take a decision only on the three official documents before the Committee (A/C.3/49/L.32, A/C.3/49/L.73 and A/C.3/49/L.74).

32. Mr. FULCI (Italy) said that, after consulting with the sponsors, he believed that the text that he had introduced was an official revision.

33. The CHAIRMAN said that the text could be considered informal or as an oral proposal for the revision of the previous text and that, if any delegation needed to consult its capital, the Committee would have to defer taking a decision on the draft resolution. Alternatively, the Committee could accept the changes proposed by the sponsors and other delegations and proceed immediately to a decision on the draft.

34. Mr. BREITENSTEIN (Finland) said that, after receiving the amendments of Singapore and Egypt to the original version of the draft, the sponsors had met in order to accommodate them, to the extent possible, in a new text that would be issued as A/C.3/49/L.32/Rev.1. It was certainly possible for the Committee to postpone its decision on the draft resolution for 24 hours, but whoever wished to introduce amendments would have to do so orally on the basis of the revised version of the draft.

35. Mr. OULD MOHAMED LEMINE (Mauritania) said that the sponsors were free to revise their text however they liked. However, the authors of the amendments maintained that the text did not meet their concerns and therefore requested the Committee to take a decision on their amendments by putting them to a vote one by one before it took a decision on the revised text.

36. Mr. LAMAMRA (Algeria), said that he was in full agreement with the view expressed by the representative of Mauritania and noted that the sponsors had used their sovereign prerogative not only to be selective in taking into account the concerns expressed by delegations but also to submit a text without a symbol, in English only, which had been introduced by Italy and whose status could therefore be considered only as informal. In order to comply with the

usual procedure, it would be better to defer consideration of the text for 24 hours so that the revised document could be issued in all languages under the symbol A/C.3/49/L.32/Rev.1 and amendments could be proposed to the revised text, which would enable the Committee to take a decision after all the relevant information had been made available.

37. Mr. BIGGAR (Ireland), referring to the procedure that should be followed, said that, in the interest of expediting their work, it was the practice of sponsors of draft resolutions to orally introduce revisions which were immediately incorporated into the texts. Since a revised text was already available, even if it had not yet been officially distributed, the Chairman should use his prerogative under rule 120 of the rules of procedure to enable the Committee to discuss the revised proposal and any amendment thereto at its current meeting.

38. Mr. SREENIVASAN (India) said that, in accordance with rule 130 of the rules of procedure, the text proposed by Italy should be considered as an amendment to the original text and that amendment should be given the same treatment as those proposed by Singapore and Egypt. It was therefore necessary to adopt a decision first on draft resolution A/C.3/49/L.32 and, following that, on the three amendments beginning with the amendment furthest removed in substance from the original proposal, namely that of Singapore.

39. Mr. BREITENSTEIN (Finland) expressed the view that the sponsors of a draft resolution revised rather than amended the text. If there was any doubt on the matter, Finland proposed that the advice of the Legal Counsel should be sought.

40. Mr. BIGGAR (Ireland) supported the representative of Finland and said that the Committee should take a decision on the revised version of the draft text and that any amendment proposed should relate to the revised text.

41. Ms. ATTAH (Nigeria) said that the only valid document on which the Committee should take a decision was the text of draft resolution A/C.3/49/L.32 and not the text proposed by Italy, which could be considered only as an informal document. The Committee could consider the original text of the draft resolution paragraph by paragraph, making any necessary amendments as it went along.

42. The CHAIRMAN, summarizing the discussion, said that the Committee had before it a revised version of the draft resolution which was not official and could be considered only as an oral revision. Consequently, it could either consider the draft resolution on the basis of that oral revision or defer its consideration for 24 hours to allow for the official text of the oral revision (which would be issued under the symbol A/C.3/49/L.32/Rev.1) to be available in all the official languages.

43. Mr. BIGGAR (Ireland), speaking on a point of order, noted that, in conformity with the last sentence of rule 120 of the rules of procedure of the General Assembly, the Chairman had the prerogative to permit the discussion and consideration of amendments or of motions as to procedure, even though such amendments and motions had not been circulated or had only been circulated the same day. However, in order to save time, he wished to propose a 15-minute

suspension, in accordance with rule 119 (a) of the rules of procedure of the General Assembly, to enable the Committee to discuss the procedure to be followed.

The meeting was suspended at 5.15 p.m. and resumed at 5.40 p.m.

44. The CHAIRMAN said that the Committee had agreed to defer consideration of the draft resolution to the following afternoon in order to give the Secretariat enough time to issue the revised version of the draft text submitted by Italy (A/C.3/49/L.32/Rev.1), in all the official languages. Amendments to the draft should be proposed on the basis of the revised text.

45. Mr. CHEW (Singapore) said that he was concerned by the omission of the eighth preambular paragraph from the revised version of the draft resolution and asked whether that paragraph appeared in the text.

46. Mr. FULCI (Italy) assured the representative of Singapore that the paragraph was included and would appear, as planned, in the official revised version of the draft resolution. He explained, moreover, that it was out of consideration for the Egyptian delegation, which wished to have enough time to consult its Government, that the sponsors had agreed to defer consideration of the draft text.

47. Mr. CHEW (Singapore) thanked the representative of Italy for his clarifications and said that he would officially introduce his amendment to the draft text at the meeting to be held the following day.

48. Mr. ELDEEB (Egypt) thanked the representative of Italy for granting his delegation's request. In view of the arrangements that had just been made, he wished to take the opportunity to officially propose a new amendment to the revised draft resolution. The amendment would insert in the English version of the eighth preambular paragraph - the only version which was currently available - after the phrases "in accordance with the international law, including the Charter of the United Nations", the phrase "and without prejudice to their national legal systems". If the Committee accepted that amendment, the eighth preambular paragraph would read as follows:

> "Affirming the sovereign right of States, in accordance with the international law, including the Charter of the United Nations, and without prejudice to their national legal systems, to determine the legal measures and penalties which are appropriate in their societies to combat serious crimes effectively."

49. Mr. SREENIVASAN (India) wished to know which State Parties were referred to in paragraph 2 of the revised version of the draft resolution and would welcome a clarification on that point from the representative of Italy.

50. Mr. FULCI (Italy) said that the reference was to the States Parties to the International Covenant on Civil and Political Rights and to the Convention on the Rights of the Child.

51. Mr. SREENIVASAN (India), supported by Mr. ELDEEB (Egypt), expressed surprise that the sponsors had used the word "Urges" in paragraph 2 of the revised version of the text rather than the word "Encourages" as proposed by their two delegations.

52. Mr. BIGGAR (Ireland) explained that States Parties to the Covenant and to the Convention were definitely obliged to honour the commitments into which they had entered by acceding to those instruments and that, consequently, the word "Urges", which was stronger than the word "Encourages", was quite appropriate. Moreover, on a point of information, paragraph 2 of the draft text urged States Parties to the Covenant and to the Convention which still maintained the death penalty not to abolish that penalty but rather to comply with the provisions of article 6 of the Covenant, including the provision that "Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women". Paragraph 2 of the revised version of the draft did not therefore impose any new obligation on States Parties to the Covenant and to the Convention.

The meeting rose at 6.05 p.m.